

DEPARTMENT OF HEALTH SERVICES

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February 1, 1998



TO: All County Welfare Directors
All County Administrative Officers
All County Medi-Cal Program Specialists/Liaisons

Letter No.:98-07

REVISED MC INFORMATION NOTICE 007 (January 1998) "MEDI-CAL GENERAL PROPERTY LIMITATIONS"

The purpose of this letter is to inform counties that the MC Information Notice 007 "Medi-Cal General Property Limitations" form has been revised. The new revision date is January 1998. (A copy has been enclosed with this letter for your reference.) Counties shall destroy any remaining MC 007 on January 31, 1998 and print copies of the newest revision for use beginning February 1, 1998 until a supply is received from the warehouse. The new MC 007 should be available from the warehouse by mid-February.

The new MC 007 contains a note about the property disregard program, the property limits and a list of the most common property exemptions including information on the Principe v. Belshé provisions.

Please be advised that the MC 007 will be revised again later in the year to coincide with implementation of and to reflect property changes made as a result of the new 1931 program. The number of copies counties order from the warehouse should be estimated with that in mind.

If you have any questions on this issue, please contact Sharyl Shanen-Raya of my staff at (916) 657-2942.

Sincerely, _____

ORIGINAL SIGNED BY

Frank S. Martucci, Chief
Medi-Cal Eligibility Branch

Enclosure

MEDI-CAL GENERAL PROPERTY LIMITATIONS

NOTE: Medi-Cal disregards property for certain pregnant women and certain children up to the age of 19. Please ask your eligibility worker.

This information notice provides a general overview of Medi-Cal property requirements for all Medi-Cal applicants and beneficiaries. Property is defined as "real property" and "personal property." "Real property" is land, buildings, mobile homes which are taxed as real property, life estates in real property, mortgages, promissory notes, and deeds of trust. "Personal property" is any kind of liquid or nonliquid asset, i.e., cars, jewelry, stocks, bonds, financial institution accounts, boats, trucks, trailers, etc. Property that is not counted in determining your eligibility is called "exempt" or "unavailable" property. Countable property (property which is not exempt or unavailable) is included in the "property reserve." Your property reserve is limited by the number of family members for whom you are requesting or receiving aid. Your countable property must not exceed the property reserve limit. Any amount over the property reserve limit will make you and/or your family ineligible for Medi-Cal. To be eligible for Medi-Cal, you may reduce your property to the property reserve limit before the end of the month in which you are requesting Medi-Cal. If you are unable to reduce your property to the property limit for a month beginning with the month of application, see the "Exception: *Principe v. Belshé*" section on page 3. To be eligible for Medi-Cal, your countable property may not exceed the following property reserve limits:

Number of Persons Whose Property is Considered	Property Limit
One person	\$ 2,000
Two persons	3,000
Three persons	3,150
Four persons	3,300
Five persons	3,450
Six persons	3,600
Seven persons	3,750
Eight persons	3,900
Nine persons	4,050
Ten persons or more	4,200

NOTE: When there is an institutionalized spouse with a community spouse, an additional amount of countable property is allowed and jewelry is exempt regardless of its value. See page 2 for additional information.

PROPERTY EXEMPTIONS

REAL PROPERTY

Principal residence. Property used as a home is exempt (not counted in determining eligibility for Medi-Cal). When an applicant or beneficiary is absent from the home for any reason, including institutionalization, the home will remain exempt if the applicant or beneficiary intends to return home someday. The home also continues to be exempt if the applicant's or beneficiary's spouse or dependent relative continues to live in it. Money received from the sale of a home can be exempt for six months if the money is going to be used for the purchase of another home.

Other real property. Up to \$6,000 of the equity value in nonbusiness real estate (excluding the home), mortgages, deeds of trust, or other promissory notes may be exempt. In order to receive this exemption, the property must produce an annual income of 6 percent of the net market value or current face value.

Real property used in a business or trade. Real estate used in a trade or business is exempt regardless of its equity value and whether it produces income.

PERSONAL PROPERTY

- One motor vehicle.
- Personal property used in a trade or business.
- Personal effects. This includes clothing, heirlooms, wedding and engagement rings, and other jewelry with a net value of under \$100.
- Household items.
- IRAs, KEOGHs, and other work-related pension plans. These funds are exempt if the family member whose name it is in does not want Medi-Cal. If held in the name of a person who wants Medi-Cal and payments of principal and interest are being received, the balance is considered unavailable and is not counted.
- Irrevocable burial trusts or irrevocable prepaid burial contracts.
- One revocable burial fund or revocable prepaid burial contract with a value of up to \$1,500 plus accrued interest per person.
- Burial space items.
- Musical instruments.
- Recreation items including TVs, VCRs, computers, guns, collections, etc.
- Livestock, poultry, or crops.
- Countable property equal to the amount of benefits paid under a state-certified, long-term care insurance policy.
- Life insurance policies. Each person may have life insurance policies with a combined face value of \$1,500 or less plus accrued interest and dividends.

PROPERTY LIMITS FOR INDIVIDUALS ENTERING OR RESIDING IN LONG-TERM CARE

you are SINGLE and residing in a long-term care facility, you must have \$2,000 or less in your property reserve.

you are MARRIED and were admitted to a long-term care facility prior to September 30, 1989, and you have a spouse at home, your separate property plus one-half of the community property must be valued at \$2,000 or less. Your at-home spouse may keep all of his/her separate property plus one-half of the community property. (Refer to MC Information Notice 005.)

you are MARRIED and are admitted to a long-term care facility on or after September 30, 1989, you are expected to remain in the facility for at least 30 consecutive days, you are applying for Medi-Cal on or after January 1, 1990, and you have a spouse who is living in the community, then your community spouse may keep a certain amount of the combined community and separate property. This amount is called the Community Spouse Resource Allowance (CSRA) and is calculated based on the day you apply for Medi-Cal. Increases are effective on January 1 of each year. You may ask your local county welfare department for the current CSRA. The institutionalized spouse (spouse in the long-term care facility) may keep up to an additional \$2,000 of countable property.

The CSRA limit may be increased if:

The community spouse obtains a court order for his/her support, or

It is determined through a fair hearing that both of the following conditions exist:

- a. A greater amount of property is necessary to generate income sufficient to raise the community spouse's income to the minimum monthly maintenance needs allowance (MMMNA). (You may ask your local county welfare department for the current MMMNA amount.)
- b. Additional income is necessary due to exceptional circumstances resulting in financial duress.

Case NOTE: Because these rules affect how much money a community spouse may retain for purposes of the institutionalized spouse's Medi-Cal eligibility, you may want to consult a legal services program for seniors in your area or a private attorney familiar with the Medi-Cal program for more information on how the law affects you.

ASSESSMENT

An institutionalized individual or his/her spouse may request an assessment of their property even if the institutionalized individual is not applying for Medi-Cal. If you would like to have an assessment completed, you must make an appointment at your local county welfare department. In order to complete the assessment, you will need to bring verification of the values of **all** your real and personal property. This verification may include such things as county tax assessments, checking account statements, savings account passbooks, court orders, brokerage account statements, life insurance policies, annuity policies, trust account documents, contracts, lease agreements, life estate documents, and/or documents from qualified persons of financial institutions about the values of any real or personal property belonging to you and your spouse.

REDUCTION OF PROPERTY TO WITHIN PROPERTY LIMITS

THE PROPERTY RESERVE MUST BE REDUCED TO AN AMOUNT AT OR BELOW THE PROPERTY LIMIT BY THE END OF THE MONTH BEFORE MEDI-CAL MAY BE APPROVED FOR THAT MONTH.

Medi-Cal eligibility cannot be approved for a month unless countable property is below the property limit at some time during that calendar month. If you are unable to reduce your property to the property limit for a month, beginning with the month of application, see the "Exception: *Principe v. Belshé*" section on page 3.

Example: A Medi-Cal applicant whose total nonexempt property consists of a savings account with a balance of \$3,300 in that month must reduce the savings account down to \$2,000 in that month. In this same situation, where there is a couple, the checking account must be reduced to \$3,000. If an institutionalized spouse and a community spouse have combined property totaling more than the CSRA plus \$2,000 in a month, the couple will need to reduce the total nonexempt property to at or below CSRA plus \$2,000 to meet the property requirements. The institutionalized spouse will then have at least 90 days (longer if a court order is necessary) to complete transfer(s) of the property contained in the CSRA to the community spouse, bringing the institutionalized spouse to within \$2,000, the property limit for one. To obtain the current CSRA amount, contact your local county welfare department.

A Medi-Cal applicant may reduce his or her nonexempt property to within the specified limits in any way he or she chooses within the calendar month for which Medi-Cal is being requested. An **applicant** who is **not** institutionalized will **not** be ineligible due to a transfer of nonexempt property for less than fair market value **unless** the individual is institutionalized within 30 months of the date of the transfer. A transfer of nonexempt property for less than fair market value is a change in the ownership of the property by giving away, selling, or otherwise exchanging it for less than the property is worth.

IMPORTANT NOTE: If you are applying as an institutionalized individual or if you may be institutionalized within 30 months of the date of a transfer, nonexempt property transferred for less than fair market value may result in a period of ineligibility for nursing facility level of care under Medi-Cal.

The following are ways to reduce nonexempt property without incurring a period of ineligibility for nursing facility level of care:

- Pay medical bills
- Buy furnishings for the home
- Pay on the home mortgage
- Buy clothes
- Make repairs to the home
- Pay off other debts
- Pay off your auto loan
- Begin process to liquidate nonliquid assets such as obtaining the cash surrender value on nonexempt life insurance policies, list property for sale with a qualified broker, etc.
- Borrow against excess property to cover the cost of medical care or request the medical provider to place a lien against the property to cover the cost of the care.

Exception: *Principe v. Belshé* provides that individuals who were unable to reduce their excess property during the month of application or some later month during the application process may spend down their property **retroactively** on qualified medical expenses. Qualified medical expenses are medical expenses that were incurred in any month and that were unpaid in the same month where there was excess property for the entire month. Eligibility will be granted, as otherwise eligible, after payment of those qualified medical expenses, with the excess property, occurs and verification of the payment is provided to the county.

TRANSFERS OF EXEMPT PROPERTY

The transfer of exempt property at any time (property which is not counted) will not result in a period of ineligibility as long as the property would have been considered exempt at the time of the transfer. This includes a transfer of property used as a home or former home. However, the money received from the sale of a home will be counted as property unless the money is to be used for the purchase of another home within six months. In addition, any money received from the sale of other exempt assets will be counted as property.

TRANSFERS OF NONEXEMPT PROPERTY

An institutionalized applicant or someone who is already receiving Medi-Cal who is institutionalized within 30 months of the date of the transfer may be ineligible due to a transfer of nonexempt property for less than fair market value. Nonexempt property may be transferred without incurring a period of ineligibility if the property is transferred to:

- The spouse (or to another for the sole benefit of the spouse) *or* to
- A child of the institutionalized individual who is blind or permanently and totally disabled.

Or, if

- The property was intended to be transferred at fair market value for something of equal value, *or*
- The property was not transferred to establish Medi-Cal eligibility, *or*
- A period of ineligibility for nursing facility level of care would work an undue hardship.

A transfer of the nonexempt former home to someone listed below or the transfer of exempt property to anyone will not result in a period of ineligibility for nursing facility level of care if the property was given away, sold, or otherwise exchanged at less than fair market value. If the nonexempt former home is transferred for less than fair market value to other individuals or other nonexempt property is transferred for less than fair market value, then the transfer may result in a period of ineligibility for nursing facility level of care. The period of ineligibility could last from 1 to 30 months. This period of ineligibility is based on the uncompensated value of the property (dollar amount of compensation not received) divided by the statewide average rate for privately paid nursing facility care.

PLEASE SEE THE BACK SIDE OF THIS FORM FOR MORE INFORMATION

example: Assume an institutionalized individual reduces property by transferring \$24,000 in savings to a son or daughter as a gift. He/she would be ineligible for nursing facility level of care because the individual received nothing in fair market value return for the gift. Suppose that the statewide average rate for privately paid nursing care is \$3,000. This institutionalized individual would be ineligible for nursing facility level of care for eight months starting with the month of the transfer (\$24,000 divided by \$3,000 average private pay rate). The institutionalized individual will still be eligible for all other Medi-Cal services.

**TRANSFER OF THE NONEXEMPT FORMER HOME BY AN INSTITUTIONALIZED INDIVIDUAL
WHICH DOES NOT RESULT IN A PERIOD OF INELIGIBILITY**

A transfer of the exempt home **shall not** result in a period of ineligibility. A transfer of the nonexempt former home also **will not** result in a period of ineligibility if title of the home is transferred to:

The spouse, *or*

A child under 21, *or*

A child, regardless of age, who is blind or totally and permanently disabled, *or*

A son or daughter not listed above, who resided in the home for two years immediately preceding the institutionalized individual's date of admission and who provided care which allowed that individual to reside at home rather than in the institution or facility, *or*

A sibling who has equity interest in the home and who resided in the home for one year immediately preceding the date the institutionalized individual was admitted to the facility or institution.

Even if applying a period of ineligibility for nursing facility level of care, the county must determine if undue hardship exists. At the time a transfer results in a period of ineligibility, the ineligible individual has the right to request an appeal through a fair hearing. The form for filing a request is on the reverse side of the Notice of Action form discontinuing, denying, or restricting Medi-Cal eligibility.